

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CHARLTON REED TIPTON,

Plaintiff,

SA-21-CV-00493-FB

VS.

PHONSO RAYFORD, CHRISTOPHER
PAULEY, CAPTAIN, TEXAS
DEPARTMENT OF CRIMINAL
JUSTICE; RUTH E. TRICE, CAPTAIN
OF CORRECTIONAL OFFICERS;
LORRAINE SALAS, GRIEVANCE
INVESTIGATOR II; ALFRED
HASSLER, ALBERT PERALEZ,
MANUEL PUENTE, MANUEL
OROZCO, OSBALDO PUENTE,

Defendants.

ORDER

Before the Court in the above-styled cause of action is Plaintiff's Motion for an Order Authorizing and Directing Payment of Court Reporter's Charges [#83]. By his motion, counsel for Plaintiff, who has been appointed to represent Plaintiff *pro bono*, asks the Court for an order authorizing him to incur the reasonable and necessary expense of retaining a court reporter for the oral deposition of each Defendant, as well as non-party witnesses employed by the Texas Department of Criminal Justice. No Defendant has filed a response in opposition to the motion, and the deadline to do so has expired. *See* W.D. Tex. Loc. R. CV-7(d).

The San Antonio Division of the Western District of Texas issued a Standing Order on March 24, 2021, regarding the payment of attorney fees and reimbursement of attorney expenses in civil cases. See Standing Order, available at <https://www.txwd.uscourts.gov/wp-content/uploads/2021/03/CivilProBonoPanelOrder032421.pdf> (last visited Jan. 31, 2023).

Pursuant to the Order, attorneys may seek reimbursement for fees and expenses and be paid up to \$5,000 in attorney's fees and reimbursed up to \$5,000 in expenses. The Third Amended Plan for the Payment of Attorney's Fees and Reimbursement of Expenses in Civil Cases sets forth the categories of allowable fees and expenses.¹ See 2022 Amended Plan, available at <https://www.txwd.uscourts.gov/wp-content/uploads/2022/12/Order-Adopting-Third-Amended-Plan-for-the-Payment-of-Attorney-Fees-and-Reimbursement-of-Attorney-Expenses-in-Civil-Cases-060822.pdf> (last visited Jan. 31, 2023).

According to Section IV of the 2022 Amended Plan, appointed counsel may order written transcripts or depositions necessary in the preparation of the case. Cost of such transcripts shall not exceed the page rate for ordinary copy established in the Western District of Texas. Only the cost of the original of any transcript shall be allowed; the costs of additional copies shall not be reimbursed. In the interest of efficiency and cost effectiveness, the Plan encourages appointed attorneys to use audio tapes for depositions. If audio-tape depositions are used, transcription of the deposition may be reimbursed at the ordinary page rate established in the Western District of Texas. The undersigned notes that a Zoom deposition can also be recorded and provides similar cost-saving benefits, or counsel could otherwise digitally record the depositions. The cost of a videographer must be approved in advance by the Judge or the Non-Appropriated Fund Committee, if reimbursement is to be requested. But counsel is permitted to conduct depositions in the presence of a court reporter or to record depositions and have them later transcribed, subject to the maximum reimbursement explained above.

Requests for reimbursement shall be submitted in the form provided in the 2022 Plan. Payment or reimbursement in excess of the maximum amounts set out in this Order may be

¹ The March 24, 2021 Standing Order references the 2011 Amended Plan as dictating allowable expenses, but this version of the Plan was superseded by the 2022 Plan in June 2022.

awarded only as provided by the 2022 Amended Plan. Payment and reimbursement shall be made from the Court's Non-Appropriated Fund ("NAF"), but no payment or reimbursement will be made absent approval from the presiding judge in the case and the NAF Committee.

Counsel for Plaintiff appears to be requesting approval in advance of Defendants' and other witnesses' depositions the reimbursement of expenses associated with retaining a court reporter. If this is counsel's intent, counsel is directed to file a Claim for Reimbursement specifying the specific anticipated expenses claimed, which addresses the number of anticipated depositions, the cost of the court reporter for each deposition, and explains why less expensive means, such as recorded depositions, could not be used in lieu of a court reporter.

IT IS THEREFORE ORDERED that Plaintiff's Motion for an Order Authorizing and Directing Payment of Court Reporter's Charges [#83] is **DISMISSED WITHOUT PREJUDICE**. Counsel should resubmit his request in accordance with the procedure outlined in this Order.

SIGNED this 1st day of February, 2023.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE